

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:09-CV-352-F

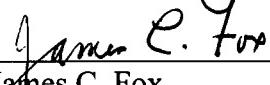
THE NEIGHBORS LAW FIRM, P.C.)
and PATRICK E. NEIGHBORS,)
Plaintiffs,)
v.) ORDER
HIGHLAND CAPITAL MANAGEMENT, L.P.)
and HYSKY COMMUNICATIONS, LLC,)
Defendants.)

This matter is before the court on the Plaintiffs' Motion for Miscellaneous Relief [DE-106], requesting that the court disallow Defendant's request to conduct a *de bene esse* deposition of Clay Callan. For the reasons aptly stated in the Plaintiffs' Motion [DE-106] it is ALLOWED.

In so ruling, the court notes that this trial was scheduled for the undersigned's February 28, 2011, term of court. As is the practice of the undersigned, criminal matters are scheduled first on a term of court, followed by any civil matters. The undersigned gave all the parties to this action notice that jury selection for this case *and* a criminal case would occur on Monday, March 7, 2011, followed immediately by the criminal trial, which could last two to three days, and possibly longer. The court also informed the parties that the trial in this civil matter would begin the day after the criminal jury returned its verdict. Accordingly, the parties in this case were aware of the very real possibility that the trial in this matter may not begin until Friday, March 11, 2011 or the following Monday, March 14, 2007. In other words, there was no guarantee that the undersigned would reach the trial in this matter during the week of March 7,

2011, or that the trial would progress such that Defendant could begin presenting its witnesses during the week of March 7, 2011.

SO ORDERED. This the 9th day of March, 2011.



James C. Fox
Senior United States District Judge